

AGENDA ITEM #2

The Department of Natural Resources' Lakes Management Work Group (a successor to the earlier statutorily-established group with the same name) identified the proliferation of piers in public freshwater lakes as a significant issue warranting attention. Ever-increasing public interest in gaining direct access to the lakes, coupled with the desire to moor ever greater numbers of watercraft along lake shores, has resulted in significant controversy regarding the effects of the piers' presence.

Accordingly, the LMWG has proposed a number of changes to 312 IAC 11-3-1, with respect to pier installation. The changes would establish additional conditions necessary for a pier to qualify for a general license, thereby causing additional types of piers - or related features - to be subject to the scrutiny of individual licensing.

TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule
LSA Document #04-

DIGEST

Amends 312 IAC 11-3-1 to include additional characteristics that would disqualify a pier from treatment under a general license. Included among these disqualifying characteristics are encirclement or isolation of public waters, length in excess of 75 feet, retention in a lake during the winter, obstruction of the free flow of water, lack of permission from the riparian owner, and undue restriction of public use. Effective January 1, 2006.

312 IAC 11-3-1

SECTION 1. 312 IAC 11-3-1, AS AMENDED AT 27 IR 3062, SECTION 1, AND AS PROPOSED TO BE AMENDED AT 27 IR 4095, IS AMENDED TO READ AS FOLLOWS:

312 IAC 11-3-1 General licenses for qualified temporary structures; dry hydrants; glacial stone refaces

Authority: IC 14-10-2-4; IC 14-15-7-3; IC 14-26-2-23

Affected: IC 14-26-2

Sec. 1. (a) The placement and maintenance of a:

- (1) temporary structure;
- (2) dry hydrant; or
- (3) glacial stone reface;

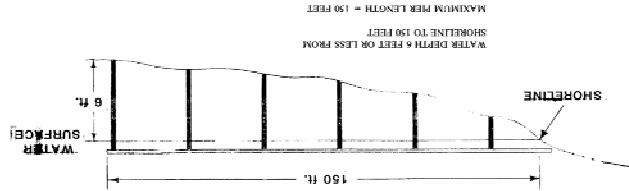
is authorized without a written license issued by the department under IC 14-26-2 and this rule if the temporary structure, dry hydrant, or glacial stone reface qualifies under this section.

(b) In order for a temporary structure to qualify, the structure must satisfy each of the following:

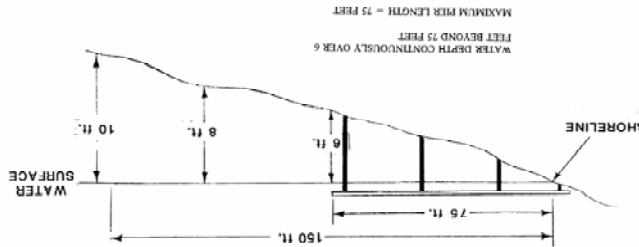
- (1) Be easily removable.
- (2) Not infringe on the access of an adjacent landowner to the ~~public freshwater~~ lake.
- (3) Not unduly restrict navigation **or public use**.
- (4) Not be unusually wide or long relative to similar structures within the vicinity on the same ~~public freshwater~~ lake.
- (5) Not extend more than ~~one hundred fifty (150)~~ **seventy-five (75)** feet from the ~~legally established or average normal~~ waterline or shoreline.
- (6) If a pier, not extend over water that is continuously more than six (6) feet deep to a distance of one hundred fifty (150) feet from the ~~legally established or average normal~~ waterline or shoreline.
- (7) Not be a marina.
- (8) Not be a group pier.
- (9) Be placed by or with the acquiescence of ~~a~~ **the riparian owner of the land from which the pier extends.**
- (10) Not encircle or isolate any part of a lake from use by the general public or obstruct navigation.**
- (11) Be removed from the lake from December 1 to March 1.**
- (12) Not obstruct the free flow of water or include any features that trap or accumulate aquatic plants or sediments.**

(c) Illustrations of maximum lengths for a pier or similar structure that may qualify under subsection (b) are as follows:

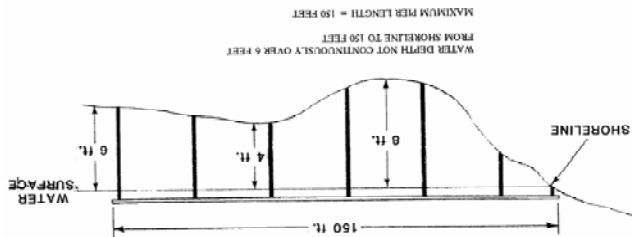
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Where the water depth is six (6) feet or less from the shoreline to ~~one hundred fifty (150)~~ **seventy-five (75)** feet from the shoreline, the maximum pier length is ~~one hundred fifty (150)~~ **seventy-five (75)** feet.



Where the maximum water depth is continuously more than six (6) feet beyond ~~seventy-five (75)~~ **fifty (50)** feet from the shoreline, the maximum pier length is ~~seventy-five (75)~~ **fifty (50)** feet.



Where the maximum water depth is not continuously over six (6) feet from the shoreline, the maximum pier length is ~~one hundred fifty (150)~~ **seventy-five (75)** feet.

(d) In order for the placement, maintenance, and operation of a dry hydrant to qualify, the hydrant must satisfy each of the following:

- (1) Be sponsored or owned by a volunteer or full-time fire department recognized by the public safety-training institute.
- (2) Be readily accessible from an all-weather road, public access site, or similar area.
- (3) Have a diameter of at least six (6) inches.
- (4) Be constructed of PVC pipe or a similar nontoxic material.
- (5) Extend no more than one hundred fifty (150) feet from the waterline or shoreline.
- (6) Have all portions of the hydrant and its in-lake accessories be at least five (5) feet below the legally established or average normal water level.
- (7) Be marked with a danger buoy, which conforms to 312 IAC 5-4-6(a)(1), at the lakeward end of the hydrant.
- (8) Be equipped with a screen or straining device on the lakeward end.
- (9) Glacial stone or riprap only may be placed in or on the lakebed for either of the following:
 - (A) Bedding the intake pipe.
 - (B) Straining the intake water.
- (10) Be approved by the riparian landowner.

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(e) In order for the placement of glacial stone on the lakeward side of a seawall that is located within or along the waterline or shoreline of a public freshwater lake to qualify, the glacial stone reface must satisfy each of the following:

- (1) The seawall reface must be comprised exclusively of glacial stone.
- (2) The reface must not extend more than four (4) feet lakeward of the waterline or shoreline at the base of a lawful seawall.
- (3) A walk or structural tie must not be constructed on the existing seawall in combination with the glacial stone reface.
- (4) An impermeable material must not be placed behind or beneath the glacial stone reface.
- (5) Filter cloth placed behind or beneath the glacial stone reface must be properly anchored to prevent displacement or flotation.
- (6) Erosion from disturbed areas landward of the waterline or shoreline must be controlled to prevent its transport into the lake.

(Natural Resources Commission; 312 IAC 11-3-1; filed Feb 26, 1999, 5:49 p.m.: 22 IR 2223; filed Jan 23, 2001, 10:05 a.m.: 24 IR 1614; filed May 25, 2004, 8:45 a.m.: 27 IR 3062)